

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

TIMOTHY JONES,

Petitioner,

Case No. 20-cv-11476  
Hon. Matthew F. Leitman

v.

KRIS TASKILA,

Respondent.

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**ORDER OF CLARIFICATION**

Petitioner Timothy Jones is a state prisoner in the custody of the Michigan Department of Corrections. On May 27, 2020, Jones filed a petition for a writ of habeas corpus in this Court. (*See* First Pet., ECF No. 1.) A week later, Jones filed a second petition arising out of the same convictions. (*See* Second Pet., ECF No. 3; together with the first petition, the “amended petition.”<sup>1</sup>) At or around this same

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<sup>1</sup> Pursuant to Fed. R. Civ. P. 15(a)(1), Jones was allowed to amend his first petition without leave of the Court. Generally, when a pleading is amended under Rule 15(a), the amended pleading supersedes the original pleading. *See Clark v. Johnston*, 413 F. App’x 804, 811 (6th Cir. 2011) (“[T]he original pleading no longer performs any function in the case and any subsequent motion made by an opposing party should be directed at the amended pleading.”) (*quoting* 6 Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1476 (3d ed. 2010)) (footnote omitted in original). The original pleading may be incorporated in the amended pleading if the party submitting the amendment intended the latter pleading to supplement, rather than supersede, the original pleading. *See id.* Here, Jones did not indicate that he intended the second petition to supersede the first. Because Jones was proceeding

time, Jones was also pursuing relief on some of his claims in state court. (*See* St. Ct. Op., ECF No. 17.)

On January 14, 2021, Respondent filed a motion to dismiss the amended petition because Jones had raised several claims that he had not fully exhausted. (*See* Mot. to Dismiss, ECF No. 10.) The Court granted that motion and dismissed the amended petition without prejudice in a written order dated June 9, 2021. (*See* Order, ECF No. 18.)

On June 28, 2021, the Court received a letter from Jones in which he asked about the status of his case. (*See* Ltr., ECF No. 20.) Pursuant to the Court's June 9, 2021, order, Jones' federal habeas action has been dismissed without prejudice and is no longer pending in this Court. In order to present his claims to this Court, Jones will have to properly re-file a habeas petition and do so within the applicable limitations period.

**IT IS SO ORDERED.**

s/Matthew F. Leitman  
MATTHEW F. LEITMAN  
UNITED STATES DISTRICT JUDGE

Dated: July 13, 2021

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*pro se*, the Court liberally construed his second petition as a supplement to the first. For ease of reference, the Court will refer to the petitions jointly as the "amended petition."

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on July 13, 2021, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

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